

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 1, 2007

D049950 In re Kellen V., a Juvenile

The judgment is affirmed. Haller, J.; We Concur: Benke, Acting P.J., Aaron, J.

D050243 In re Hailey V., a Juvenile

The appeal is dismissed. O'Rourke, J.; We Concur: McDonald, Acting P.J., Irion, J.

D048059 Tsai v. WRI/San Marcos LLC

The judgment is affirmed. Costs are awarded to respondent. Huffman, J.; We Concur: McConnell, P.J., Aaron, J.

D048426 People v. Rubio

The victim restitution order is affirmed. McIntyre, J.; We Concur: McConnell, P.J., Huffman, J.

D048380 FMI Inc., et al. v. Dardeen et al.

The order denying the motion to strike is reversed and the matter is remanded to the superior court with directions to enter a new order granting the motion. Cross-defendants are awarded their costs on appeal. On remand, the trial court shall award the cross-defendants reasonable attorney fees and costs incurred on the motion to strike and on appeal. McIntyre, J.; We Concur: McConnell, P.J., Huffman, J.

D046015 Su v. Plaza del Sol et al.

The petition for rehearing is denied.

D048214 People v. Schiltz

The judgment of convictions and the true findings on the three prior prison term allegations are affirmed. The Court's true findings as to the two prior strike conviction allegations are reversed and Schiltz's sentence is vacated. The matter is remanded for a new sentencing hearing, and any further proceedings not inconsistent with this opinion. McDonald, J.; We Concur: Haller, Acting P.J., Irion, J.

D049269 In re the marriage of Munro

The order is reversed. Julie is entitled to her costs on appeal. McIntyre, J.; We Concur: McConnell, P.J., Huffman, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 1, 2007 (Continued)

D048492 People v. Lockman

The judgment is affirmed. Huffman, Acting P.J.; I Concur: McIntyre, J.; I Concur and Dissent: Aaron, J. (opinion)

D049951 In re Christian P. et al., Juveniles

The judgment is affirmed. McIntyre, J.; We Concur: McDonald, Acting P.J., Aaron, J.

D048482 People v. Martinez

The judgment is affirmed. Nares, J.; We Concur: McConnell, P.J., O'Rourke, J.

D048382 Elizabeth B. v. Corey G. et al.

Order affirmed. Benke, Acting P.J.; We Concur: Huffman, J., Aaron, J.

D050535 People v. Benitez

The notice of appeal and clerk's transcript have been read and considered by Presiding Justice McConnell and Associate Justices Huffman and McIntyre. Although Gilberto Benitez captioned his petition for relief in the San Diego Superior Court as a "Petition for Writ of Error Coram Novis (sic)," the superior court correctly treated the petition as a petition for writ of habeas corpus based on the record provided and the relief sought. An order summarily denying a petition for a writ of habeas corpus is not appealable. The appeal is dismissed. The clerk of the court is directed to return Gilberto Benitez's "Informal Opening Brief on Appeal of Order Dated January 10, 2007" received on April 25, 2007, to Mr. Benitez.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 2, 2007

D049399 People v. Soto

The judgment is affirmed. Benke, Acting P.J.; We Concur: Huffman, J., McIntyre, J.

D049953 In re Serena Z., a Juvenile

The order is affirmed. McDonald, J.; We Concur: McConnell, P.J., Irion, J.

D048013 People v. Reyes

The judgment is affirmed. McDonald, J.; We Concur: Haller, Acting P.J., Irion, J.

D049100 In re Jennifer R., a Juvenile

The jurisdictional order is affirmed. The appeal from the dispositional order is dismissed as moot. Haller, Acting P.J.;

We Concur: O'Rourke, J., Irion, J.

D049760 In re R.M. et al., Juveniles

The judgment is affirmed. McConnell, P.J.; We Concur: Huffman, J., McIntyre, J.

D049752 People v. King

The judgment is affirmed. Irion, J.; We Concur: Haller, Acting P.J., McIntyre, J.

D049279 In re William W., a Juvenile

The juvenile court's order that William pay \$3,265 victim restitution is affirmed. McDonald, Acting P.J.; We Concur: McIntyre, J., Irion, J.

D042645 People v. Calhoun et al.

We hereby reinstate the true findings on the Vehicle Code section 20001, subdivision (c) allegations against Calhoun and the two 6-year terms imposed on Waller. Accordingly, we affirm in full the trial court's judgments. McDonald, J.; We Concur: McConnell, P.J., McIntyre, J.

D046806 People v. Macklem

It is ordered that the opinion filed on April 10, 2007, is modified. No change in judgment. The petition for rehearing is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 3, 2007

D048030 Vansandt et al. v. Trivedi et al.

The judgment is vacated, and this matter is remanded to the trial court for proceedings consistent with this opinion. The parties are to bear their own costs on appeal. Irion, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

D050110 San Diego Transit Corporation v. Workers Compensation Appeals Board and Mayer

The petition is denied.

D050687 In re Larsen on Habeas Corpus

The petition is denied.

D050117 In re Thompson on Habeas Corpus

The petition is denied.

D050126 In re Handy on Habeas Corpus

The petition is denied.

D050111 In re Butler on Habeas Corpus

The petition is denied.

D050665 People v. Gebremariam

The petition is denied.

D050639 Sanchez v. Superior Court of San Diego County/People

The petition is denied.

D050630 Civic Helicopters Inc., et al. v. Superior Court of San Diego County/Harper et al.

The petition is denied.

D050730 Friedman v. Superior Court of San Diego County/Irvine Apartment Communities

The petition is denied.

D047993 People v. Weaver

The petition for rehearing is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 3, 2007 (Continued)

D050124 In re Malone on Habeas Corpus

The petition is denied.

D050009 In re Shearer on Habeas Corpus

The petition is denied.

D049408 People v. McNight

The judgment is affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

D050144 In re Damon M., a Juvenile

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)

D046321 People v. Shearer

The judgment is affirmed, except that the sentence set forth in the judgment is reversed and the matter is remanded for resentencing consistent with this opinion. McDonald, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

D050121 In re Mariage of Banks

Pursuant to California Rules of Court, rule 8.140, the appeal filed January 5, 2007, is dismissed for appellant's failure to timely designate the record.

D050028 In re Morgan on Habeas Corpus

The petition is denied.

D05004 Walker v. Holmstrom

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.220(a). The appeal is dismissed

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
May 4, 2007

D049632 In re Leah G., a Juvenile

The order is affirmed. O'Rourke, J.; We Concur: McConnell, P.J., McDonald, J.

D047471 Smith et al. v. Hance

The order is affirmed and the matter remanded to the trial court for a determination of the proper amount of attorney fees on appeal in accordance with this opinion. In addition to attorney fees, Hance shall recover costs on appeal. O'Rourke, J.;
We Concur: Haller, Acting PJ., McDonald, J.

D049607 People v. Carrillo

The section 12022, subdivision (b)(1) enhancement attached to the aggravated assault count is ordered stricken and the trial court is directed to amend the abstract of judgment and to send a certified copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed. McConnell, P.J.; We Concur: Benke, J., Haller, J.

D050638 Clymer v. Superior Court of San Diego County/Champagne et al.

The petition is denied.